

COMMISSIONERS APPROVAL

GRANDSTAFF *cg*

ROKOSCH *gjm*

THOMPSON *NT*

CHILCOTT *je*

DRISCOLL *vd*

PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner Carlotta
Grandstaff, Commissioner Jim Rokosch, Commissioner Greg Chilcott and Commissioner
Kathleen Driscoll.

Date..... July 16, 2008

Minutes: Beth Perkins

► Commissioner Thompson attended the annual NACo Convention in Kansas City.

► The Planning and Zoning Commission met with Planning regarding Ricketts Voluntary Zoning District and adoption of standards. Present were Commissioner Grandstaff, Commissioner Chilcott, Commissioner Rokosch, Interim Planning Director Renee Lemon, Planner Shaun Morrell, Planner Tristan Riddell, George Masnick and Paul Snyder.

Commissioner Grandstaff requested an overview.

Shaun reviewed the State Law of adopting a voluntary zoning district. A voluntary zoning district may be adopted by two ways, one is county initiated zoning and the other is through a petition of interested landowners. He stated they received a proposal of the petitioners.

Commissioner Chilcott made a motion to have Commissioner Grandstaff be Chair of the Planning and Zoning Committee. Commissioner Rokosch seconded the motion and all voted 'aye'.

Tristan reviewed the changes proposed by Planning to the original proposed regulations. He stated legal counsel has not reviewed these standards. There is concern of the limitation of the number of group homes. Excluded uses did not have many changes. The building types allowed are single family dwellings as well as a "mother-in-law" unit. Tristan stated there is a staff note regarding the enforcement of nuisances and the lack of

ability to enforce them and suggested making it part of the covenant. He discussed fence heights and the non-conforming use section. Tristan then reviewed the amendments and stated there are two changes.

Tristan presented the Staff Report. (See Attached)

Tristan stated there was one public comment received via email from John Horat and entered it into the record.

Commissioner Grandstaff opened public comment.

Steve Benedict Co-owner of Advanced Storage Solutions presented written comment. (See Attached) He then read the written comment to the Board.

Commissioner Driscoll stated she drove on Ricketts Road yesterday. She could not see around the corner for on-coming traffic due to a large sign, therefore understands the point of the setbacks.

Quinty Smith stated she would have liked to receive the Planning changes to the standards prior to this meeting for review. She stated the neighborhood has been waiting since December and would like to have a decision today. Quinty explained the chain linked fences standards were due to the urbanization of the neighborhood. It was a thoughtful insertion into the rules and chain link would be allowed to fence in dogs. She believes the protest period would have been the right time to bring these changes up however; the changes do not affect the intent of the proposal and would like to move forward.

Jim Olson stated he agrees with Quinty. It does not change the intent. He discussed the land use section and requested it to be stricken from the standards. He then discussed the non-conforming changes and requested it to be changed to "shall not". After those changes, he is in agreement with Planning and requested the voluntary zoning district be adopted. He further stated the use of chain linked fences would be allowed for dog pens.

Mike West, Co-Owner of Advanced Storage Solutions submitted written comment for the Board. (See Attached) He then read the written comments to the Board.

Shirley Smith stated she would like to encourage the Commissioners to approve the zoning district. She lives in the proposed zoning district and would like it to continue to be a residential district. Towards the bridge, Advanced Storage Solutions has a huge sign on the right making it hard to see around the corner for merging with traffic.

Gordon Maus stated he put his entire retirement into purchasing half of 30 Ricketts Road for his children's future inheritance. The question of free enterprise for the storage units does not seem economical viable since there is another storage facility across the way. He has put a lot of work into this and believes the voluntary zoning district should be approved.

Rick Fuhrman stated there is comment for setting precedence. This county has set precedence in the past, but all were along the limitations of the law.

Jim Olson stated there was a 30 day protest on the boundaries. He stated the neighbors want no more commercial venues in the area. The sign at the storage units is a traffic hazard. He would like to see it conform to zoning regulations of 4X4.

Steve Benedict stated he has a letter dated 12/11/07 from Clam Fork LLC protesting the zoning district and requested to be left out.

Quinty Smith stated when Mike said this was done in good faith it was a slug in the stomach. The first complaint is only one person received a letter regarding the storage facility. She stated she had spoken with Mike for other uses for the property other than storage facility as did Jim Olson. Mike took out the septic and changed the design of the storage unit to elude the subdivision criteria process and now they want to go through the process to put a house on the property. She stated Steve promised they were going to plant trees and landscape to improve the property and have not done so. The "good" faith has diminished among the neighbors due to this action. She would like to see the chain linked fence be made more appealing to the eye rather than used for advertising. She urges the Board to approve this voluntary zoning district for what the neighborhood really wants.

Mike West stated he and Steve have not done anything illegal and should not be treated as if they did. It is a clear defamation of a person's name. When zoning comes through, the neighborhood will be zoned commercial. The Commissioners need to wait for zoning before acting on this. The neighbors are trying to manipulate this to make it stay residential. He further discussed the reason to zone it commercial. He requested the Commissioners to work with the Planning Department and then review it.

Gordon Maus stated he has worked with the Hamilton CPC group and at no time has this area been designated for commercial use. For the defamation of a person's name, there was an article in the Ravalli Republic where a person was called a liar for simply stating she did not receive notification.

Commissioner Grandstaff requested public comment to be directed towards the voluntary zoning district and not the proposed subdivision application.

Shirley Smith stated she would like to see the voluntary zoning district be approved. She lives on Ricketts Road and would not like it to become commercially zoned.

Commissioner Grandstaff closed public comment and opened board deliberation.

George discussed page 4 criterion 2. He does not know why the comment is in there. Criterion 4 on page 5 number 1 – second sentence he would like it to be stricken. On page 7 under land use for home occupations, there isn't any discussion for outside

employees. There is an issue of employees and how they arrive there as well as customers. There is a mention of limiting group home facilities. They were prompted to do so by the neighboring district having a drug treatment facility with recently released convicts. There was a discussion of guest homes; if these guest homes are not in use can they be rented out, and are there any limits? He questioned the nuisance limitations in the way of enforcement. There are two purposes of a voluntary zoning district. One is to discourage things from happening and the second is to enforce violations. On page 10, under the requirements for granting a variance, he is not sure what the definition of hardship is. Shaun replied it is generally considered to be related to the characterization of the property, such as a setback that can't be met due to the typography or the shape of the parcel. George asked if there is a history of people requesting variances. Shaun replied yes however this Board tends to discourage variances. George asked who hears the variance request and what the process is. Tristan stated Planning reviews the variance and then makes a recommendation to the Board of County Commissioners.

Commissioner Rokosch stated building types need clarification such as if they can be used for rental activity, also the number of employees for home-based operations. He stated further discussion needs to occur for the other points George brought forth. He stated there needs to be focus on the development pattern for a decision. There has been discussion of the chain linked fence. It sets a requirement of a setback of 40 feet. He does have concerns of creating a 40 foot area that requires maintenance and the weed issue.

Commissioner Grandstaff asked about the changes of the proposed voluntary zoning district regulations and if they get made right now. Tristan replied there will be an RCA brought forth to the Commissioners with the changes.

Paul stated the boundary has been approved and included the commercial development within the residential area. The district has the right to control everything within the boundary. Whatever is decided here today is legal.

Commissioner Chilcott questioned the appropriate time for public comment and stated now is the time. The voluntary zoning district was conceived in response to the storage facility out there. His concern is not to target one business existing that was done legally. He stated the Board cannot penalize the business and it is poor public policy. He discussed the use of vehicles within the standards which is focused and the business that has RV storage. He has concerns regarding the density as well. He is reluctant to move forward with this due to vindictive intentions. He does agree with the agricultural activities listed as he believes there is some activity out there. He further discussed the non-conforming uses portion of the standards. According to the standards, no expansion is allowed. He stated there are some legal reviews that need to be made prior to making a decision.

Tristan stated the document will be reviewed by legal counsel. Commissioner Rokosch stated legal review is needed but not required to make a decision. He addressed the agricultural activity and adjustments are needed to cover it in the standards. He discussed

Advanced Storage Solutions being an existing commercial parcel within a residential area.

Commissioner Chilcott discussed the ability of expansion for the storage facility. Commissioner Rokosch stated non-conforming uses language needs to be changed to allow the expansion use.

Renee stated it would help to go through the findings of fact and to add a finding under criteria 2 based on the different property taxes to get a better idea of use.

Tristan reviewed the findings of fact. Renee suggested removing the last sentence under criteria four. Commissioner Rokosch stated he would like to see it left in and add the findings of fact for land use. Commissioner Chilcott stated while it may not be consistent with the Department of Revenue, it may not show agricultural use since taxes do not change much unless it is formore than 20 acres.

Tristan reviewed the changes. He stated the first change is to limit the number of employees for home occupations. On page 6, Commissioner Chilcott would like to see some latitude. Tristan recommended 4.3 acres and doing a 4 acre minimum. Quinty stated 5 acres are historically used for minimums and keep the character of the neighborhood.

George stated as a resident of a voluntary zoning district, if the piece of property was an original orchard tract, it was considered to be 10 acres and could only be divided once. They also agreed it did not have to be equal pieces such as 9.38 acres could be divided as a 5 acre parcel and a 4.38 parcel.

Commissioner Rokosch suggested allowing a one time split without a size limitation.

Paul stated this is what the neighbors proposed and it is what they want.

Commissioner Grandstaff discussed the number of employees for home occupation being limited to the accommodated parking for both employees and customers. Quinty stated it is already listed in criteria four. Jim Olsen stated he is fine with the additional language to address parking. There are some home occupations existing and that is why that was included. Commissioner Chilcott suggested having clear concise standards which would be easier to enforce.

Commissioner Chilcott further suggested the use of "parcel" rather than "premise". Shaun recommended changing it to residential parcel. The Board concurred.

Paul discussed the concept of keeping it residential and limiting the number of employees for home occupation. Quinty questioned the possibility of seasonal employees. Commissioner Grandstaff replied the limitation of parking would address the issue. Paul then discussed the possibility of a home-based daycare. He pointed out with a daycare there would be people dropping off children and picking them up as well as the employees.

Commissioner Grandstaff requested a ten minute recess and then reconvened the meeting after the recess.

Quinty stated they will strike number four and limit it to four employees. For nuisances, they want to leave the verbiage in there as a deterrent. They would also like to leave the language for the "mother-in-law" units for rental purposes. The intention is for it to be used for caretaker use but not denying any use. Tristan asked if there is a limit of "mother-in-law" units on the premises. Quinty stated the intention is one unit per parcel. Tristan pointed out it is plural in the language. Quinty requested a change to singular.

Commissioner Rokosch stated what he is hearing is the intention is for single dwelling units. Quinty agreed. Tristan stated the language can reflect to allow a single "mother-in-law" unit (secondary dwelling unit) per property. Further discussion followed regarding non-rented use.

Quinty requested keeping the language as written for secondary dwelling units. Commissioner Chilcott stated there is no way to enforce rental regulations. Steve asked if concern was expressed for separate guest quarters, does this group have to go back to the petitioners with the changes. Tristan replied no, due to legal notice of the public hearing and amendments to the original proposed standards as well, it will go forward to the Board of County Commissioners for another public hearing. Jim stated he did go through the criteria with the group prior to petitioning for a voluntary zoning district.

Quinty stated separate language is needed for garages and offices or any secondary unit requiring septic. Further discussion followed regarding the language. She also suggested striking the offices and garages since it is separate and striking the "s" for the "mother-in-law" units.

Tristan stated for definition purposes, when reading "mother-in-law" unit it is going to read secondary dwelling unit. Further discussion followed regarding rental purposes. Commissioner Rokosch suggested referencing the "mother-in-law" unit but they need to be attached to the single family dwelling. Further discussion followed regarding the need for subdivision review prior to have a secondary dwelling unit built. Commissioner Chilcott stated based on the efforts set forth he would recommend striking all language, keeping it simple and state secondary dwelling units. Jim suggested striking it all. Quinty asked if there was a way to add language to show the intent. Renee replied it could be added however, the county would not be able to enforce it.

Paul stated Quinty has the ability to choose here. Either have the secondary dwelling units or not. Commissioner Chilcott expressed his concerns with the other members of this district having something told to them and find out tomorrow it is different. It was decided to bring the issue back to the neighborhood for a vote prior to the public hearing by the Board of County Commissioners.

Quinty stated the fence restriction was intended to not have a chain link fence surrounding a property. They can have wood fences. Commissioner Chilcott expressed his concern with the existing chain link fence for the storage unit facility. He then discussed the restriction on expansion. He stated the Board wants to promote business not limit it. Commissioner Rokosch clarified the uses and consideration of the conflicted uses.

Quinty requested on page 7 to un-strike the portion for business restriction. Jim stated this is what the people of the district wanted for the expansion of businesses. Commissioner Rokosch stated the limitation would apply to all existing businesses. Jim reiterated the limitation of expansion of businesses. All agreed.

Mike West stated by limiting the expansion, the Board limits the ability for improvements.

Commissioner Chilcott discussed the RVs being parked on the storage facility and if this limits the number of RVs. If this is adopted are they limited to what is already there or can they take in more? Jim replied there is a big area for parked vehicles and he assumes it is part of the business. Quinty stated no, it would be saying the existing storage units could not be rented. Further discussion followed regarding the possibility of expansion for the storage facility.

Jim stated there is a chance for them to change whatever they want but they need to go through the subdivision amendment petition. There is an opportunity. It was agreed to keep it as it is.

Commissioner Grandstaff requested any further discussion.

Quinty stated had the neighborhood seen good faith from the storage facility owners to screen what they had promised, it would be different. She stated they are making money on the backs of those losing money in the name of free enterprise. She stated the neighbors are asking for a nice community and good will. Further discussion followed regarding the business plan of the storage facility for the existing conditions of the fence.

Commissioner Grandstaff requested any further discussion, hearing none. She then requested a motion.

Commissioner Rokosch made a motion to approve the Voluntary Zoning District standards for Ricketts Road based on the findings of fact in the Staff Report and as amended here today and the issue of number 3 to be resolved regarding the building language between the Planning Staff and landowners and to be brought forth to the Board of County commissioners for approval. George seconded the motion and all voted 'aye'.

► The Board met for a release letter of credit for Hamilton Heights Block 14 Lots 14 & 15. Present were Planner John Lavey and PCI Representative Chris Taggart-Cobb.

Commissioner Chilcott made a motion to release the letter of credit for Hamilton Heights Block 14 Lots 14 & 15. Commissioner Rokosch seconded the motion and all voted 'aye'.

► The Board met to interview Weed Board applicant Randy Maxwell.

► The Board met to open bids for Junk Vehicle hauling.

One bid was received for Junk Vehicle Hauling from Marvin Kyle in the amount of \$39.77 plus \$2.39 per vehicle. **Commissioner Chilcott made a motion to give the bid to the Environmental Health Director for a recommendation. Commissioner Rokosch seconded the motion and all voted 'aye'.**

► The Board met for Approval of the RFQ for Qualified Pool of Consultants for Subdivision Review. Present was Interim Planning Director Renee Lemon. Renee stated there is a need to update the RFQ for Qualified Pool of Consultants. **The Board agreed to update the RFQ.**

► Commissioner Chilcott attended RCEDA meeting in the afternoon.

Attachments
for July 16th

**RICKETTS ROAD
VOLUNTARY ZONING DISTRICT**

STAFF REPORT FOR PLANNING & ZONING COMMISSION

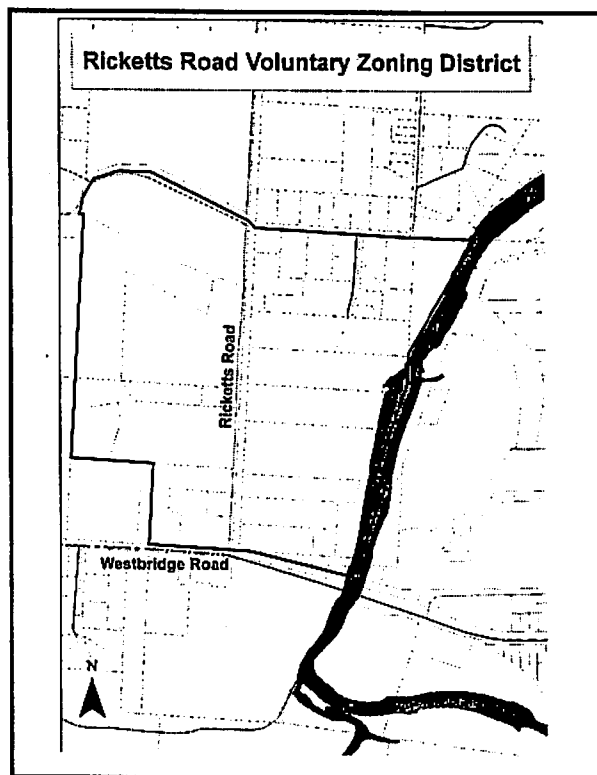
CASE PLANNER: Tristan Riddell *TR*

**REVIEWED/
APPROVED BY:** Shaun Morrell *SM*

**PUBLIC HEARINGS/
MEETINGS:** PZC Public Hearing: July 16, 2008
BCC Public Meeting: TBD

**DISTRICT
REPRESENTATIVE:** James Olsen
215 N. 10th St
Hamilton, MT 59840

LOCATION OF REQUEST: The proposed voluntary zoning district is located west of Hamilton off Ricketts Road. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

The Ricketts Road Voluntary Zoning District consists of the following property in Ravalli County, Montana: S ½ of Section 23, the NW ¼ of Section 25 and the E ½ of Section 26, Township 6 N, Range 21 W, P.M., M. and is described as beginning on the southeaster corner of Tract B as shown on Certificate of Survey #3550 which is a point on the north line of West Bridge Road and the center of the Bitterroot River, thence west along the north line of West Bridge Road to the east-west center line of Section 26, thence west along said center line to the southwest corner of parcel A as shown on Certificate of Survey #2560, thence north along the west line of said Parcel A to the south line of Tract B-1 as shown on Certificate of Survey #590016, thence west along the south line of said Tract B-1 and Tract A-1 as shown on Certificate of Survey #590016, thence north along the north-south center line of Section 26 to the North ½ Corner of Section 26, thence west along the line between Sections 23 and 26 30.00' to the southwest corner of Tract A as shown on Certificate of Survey #2933, thence northerly and easterly along the western and northern sides thereof to the northeast corner, thence south along the east side of Tract A S 2° W , 26.83', to the line between Sections 23 and 26, thence east along the section line to the northeast corner of Section 26, thence east along the north line of Section 25 to the west line of the City of Hamilton's ownership which is the center of the Bitterroot River, thence southerly along the center of the Bitterroot River to the point of beginning.

LEGAL NOTIFICATION:

A legal advertisement was published in the Ravalli Republic on Tuesday, July 1, 2008. Notice of the project was posted on the property in three different locations on June 24, 2008. Requests for public comment were sent to property owners by first class mail within the district on June 24, 2008. No public comments have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property: Primarily low-density residential

RAVALLI COUNTY PLANNING & ZONING COMMISSION

JULY 16, 2008

RICKETTS ROAD VOLUNTARY ZONING DISTRICT STANDARDS

RECOMMENDED MOTION

(Staff changes to the proposed district standards are in underline/~~strikeout~~.)
That the Planning and Zoning Commission make the following findings:

1. The Ricketts Road Voluntary Zoning District standards reduce the potential impacts of development on public health and safety;
2. The proposed district standards, as amended, will help maintain a consistent development pattern within the Ricketts Road Voluntary Zoning District and the surrounding area that is beneficial to the current physical and economic development of the area;
3. The district standards substantially comply with relevant provisions of the Growth Policy; and
4. The district standards will have minimal effects on agricultural activities.

Based on those findings and the findings in the staff report, the Planning and Zoning Commission hereby adopts a resolution to recommend the Board of County Commissioners adopt the Ricketts Road Zoning District Standards as amended by staff.

INTRODUCTION

Ricketts Road is a proposed Voluntary Zoning District located approximately 0.5 miles west of Hamilton. The district is comprised of 26 parcels. The district is located in a mostly low-density residential area. The Bitterroot River traverses the eastern boundary of the district.

The district was originally proposed on October 23, 2007. The Commissioners considered the request and created the district boundaries via Resolution #2197 on November 16, 2007. The original proposal included a set of proposed zoning district regulations, which have been evaluated by staff against the review criteria outlined in state law. Staff has also evaluated the proposed district standards and recommended changes to improve clarity and prevent issues associated with enforcement of the regulations.

Staff recommends approval of the district standards as amended.

ZONING DISTRICT REPORT

COMPLIANCE WITH ZONING DISTRICT STANDARDS REVIEW CRITERIA

CRITERION 1: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. The Ricketts Road Voluntary Zoning District is located approximately 0.5 miles west of the city of Hamilton.
2. The Bitterroot River traverses the eastern boundary of the district in a south-to-north direction.
3. Development Pattern item #1 in the proposed district standards limits future subdivision of lots to a minimum size of 5 acres per lot.
4. The restriction of junkyards and other noxious activities has a positive effect on public health and safety.
5. Prohibiting the creation of lots less than 5 acres in size along the Bitterroot River corridor reduces the potential adverse impacts of development on public health and safety by limiting the potential number of new wastewater treatment facilities.
6. Any addition of a guest home will be subject to the requirements and design standards as outlined in the Ravalli County Subdivision Regulations. Meeting these requirements will further help mitigate any adverse effects that may occur in relation to public health and safety.

Conclusion of Law:

The proposed district standards will reduce the potential impacts of development on public health and safety.

CRITERION 2: ESTABLISH A DEVELOPMENTAL PATTERN FOR THE PHYSICAL AND ECONOMIC DEVELOPMENT OF THE DISTRICT

Findings of Fact:

1. The proposed zoning district is located within an area where the predominant use is low-density residential. Properties within the district average approximately 4.3 acres. The surrounding properties range from 0.5 to 40 acres in size.
2. The proposed district standards promote an overall development pattern that is not in conflict with current uses and the land development pattern within the district and in the surrounding area.
3. Development Pattern item #3 in the proposed district standards limits any commercial use to home-based occupations. To ensure that home-based occupations have minimal impact on the existing development pattern of the area and to prevent any potential confusion about what constitutes a home-based occupation, staff recommends adding a section to clarify the term "home-based occupation."
4. The district standards lay out a list of conditions which must be complied with in order to operate a home-based occupation. The conditions set forth do not hinder the potential for the economic development of a home-based occupation.
5. The district standards allow for agricultural use, with the exception of several commercial-level operations.

Conclusion of Law:

The proposed district standards, as amended, will help maintain a consistent development pattern within the Ricketts Road Voluntary Zoning District and the surrounding area that is beneficial to the current physical and economic development of the area.

CRITERION 3: COMPLIANCE WITH THE GROWTH POLICY

Findings of Fact:

1. The Ravalli County Growth Policy provides that creation of voluntary zoning districts is a mechanism that can be used to implement the goals and objectives of the Growth Policy. MCA 76-2-101 et. seq., provides for the creation of a voluntary zoning district.
2. Voluntary zoning districts are citizen-initiated through a petition process to the Board of County Commissioners.
3. Relevant provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of the voluntary zoning district standards against these provisions.

Countywide Goal 1B: Promote private open land, farm land, ranch land, and recognition of agriculture and forestry as valued land resources.

- The proposed district standards specifically permit agricultural activities.

Countywide Goal 2: Protect water quality and supply.

- The proposed district will protect the Bitterroot River, by limiting future subdivision of land.
- Adoption of the regulations will limit the potential number of new wastewater treatment systems and wells introduced into the district that could adversely affect ground and surface water resources.

Countywide Goal 7: Plan for residential and commercial development.

- Adopting district standards helps to plan for appropriate residential and commercial development in appropriate areas. The location of the Ricketts Road Voluntary Zoning District is suitable for low-density residential development and home-based occupations, due to the area's current development pattern.

Conclusion of Law:

The proposed district standards substantially comply with relevant provisions of the Growth Policy.

CRITERION 4: EFFECTS ON AGRICULTURAL ACTIVITIES

Findings of Fact:

1. State law provides that voluntary zoning districts shall not regulate lands used for grazing, horticulture, agriculture, or the growing of timber. There are currently ~~no known~~ agricultural or forestry activities taking place within the district boundaries.
2. The proposed district standards specifically allow agricultural activities.

Conclusion of Law:

The proposed district standards will have no adverse effect on agricultural activities.

**RICKETTS ROAD
VOLUNTARY ZONING DISTRICT
E X H I B I T "A"**

This is a request to establish the Ricketts Road Voluntary Zoning District and describes the uses that can occur within said district and establishes certain standards and requirements.

Authority: This district is enacted pursuant to and consistent with the requirements and authority of Section 76-2-101 and 76-2-205 MCA.

Purpose of the District: It is the intent of the residents of the Ricketts Road Voluntary Zoning District to preserve the rural residential character of the neighborhood while accommodating appropriate development and growth. The residents specifically wish to prevent the development of a retail district within the area encompassed by this zoning district. The residents wish to keep the integrity of the district and assure rural and semi-rural development of land and the continued use of agricultural activities.

Severability: The provisions of these regulations are severable. If any provision or portion thereof is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining provisions, all of which shall remain in full force and effect.

Property Within the District: The following properties shall be within the Ricketts Road Voluntary Zoning District:

Property Within the District. The Ricketts Road Voluntary Zoning District is located in the S ½ of Section 23, the NW ¼ of Section 25 and the E ½ of Section 26, Township 6 N, Range 21 W, P.M., M. and is described as beginning on the southeaster corner of Tract B as shown on Certificate of Survey #3550 which is a point on the north line of West Bridge Road and the center of the Bitterroot River, thence west along the north line of West Bridge Road to the east-west center line of Section 26, thence west along said center line to the southwest corner of parcel A as shown on Certificate of Survey #2560, thence north along the west line of said Parcel A to the south line of Tract B-1 as shown on Certificate of Survey #590016, thence west along the south line of said Tract B-1 and Tract A-1 as shown on Certificate of Survey #590016, thence north along the north-south center line of Section 26 to the North ½ Corner of Section 26, thence west along the line between Sections 23 and 26 30.00' to the southwest corner of Tract A as shown on Certificate of Survey #2933, thence northerly and easterly along the western and northern sides thereof to the northeast corner, thence south along the east side of Tract A S 2° W , 26.83', to the line between Sections 23 and 26, thence east along the section line to the northeast corner of Section 26, thence east along the north line of Section 25 to the west line of the City of Hamilton's ownership which is the center of the Bitterroot River, thence southerly along the center of the Bitterroot River to the point of beginning.

Development Pattern: The following development pattern provisions apply to the Ricketts Road Voluntary Zoning District:

- 1) **SUBDIVISION:** Except for non-conforming lots existing at the time of adoption of these restrictions, no lot shall be created to have an area less than five (5) acres in size.

2) **LAND USE:** It is intended that this the land within this district shall be used for residential or agricultural use. Home Occupations are allowed provided they meet the following conditions:

residential parcel
Home Occupation means any occupation, professional enterprise, or similar activity that is conducted on the premises of a residence as an accessory use and has few, if any, impacts on surrounding properties beyond those produced by residential use alone; the term does not include hobbies or similar non-commercial activities or any activity that would meet the definition of an industrial use.

Home Occupations must conform to each of the following conditions:

- # of employees should be addressed*
1. They shall be carried on by a member of the resident(s) of the dwelling unit.
 2. There may be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one exterior sign, no larger than four (4) square feet in size, which shall not be mounted on a pole or in the air, and must be placed on the home within four (4) feet of the main entry door.
 3. There shall be no exterior storage of materials or variation from the residential character of the principal building.
 4. No traffic may be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street. No home occupation, or any required parking for the home occupation, shall use the parking space required for the residence.
 5. No vehicles, except those normally used as passenger vehicles or personal recreational vehicles as allowed by these regulations, will be used for the home occupation unless stored or parked elsewhere.
 6. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

7.
(Staff explanation: Home occupations can be difficult to enforce. Staff is recommending clarification as to what is meant by the term "home occupation." There are many different possible ways to define what is meant by a home occupation. Please let staff know if you wish to consider alternative definitions and descriptions.)

~~businesses are allowed including but not limited to, Bed & Breakfasts, Vacation Rentals, Outfitters (ie: fly fishing guides), in home restaurants, and special events. The Hamilton Players Theatre is an existing structure and business and is protected under non-conforming rights to exist and operate in the district. Intentional Retirement or Extended Family Community, utilizing a single septic system and not to exceed 6 individual living spaces is allowed. (Staff Note: Staff has concerns regarding the regulation of group home facilities and the legality of the proposed restrictions.)~~

As to animals or fowl, owners are directed to restrain the keeping of livestock within reasonable limits considering area and never in such numbers as to create over grazing, or nuisance and offensive odors to neighboring owners.

For purposes of clarification, the following uses are specifically excluded:

- a) Commercial feed lot operations for horses, swine, sheep, or the like.
- b) Commercial dairy operations of more than three (3) animals.

- c) Commercial kennels.
- d) Junkyards or any automotive type businesses.
- e) Bulk chemical, fertilizer or grain or underground fuel storage and transfer facilities.
- f) Churches, schools, and daycare centers except for those which are home based businesses occupations. Said activity must be clearly incidental and subordinate to the primary use of the dwelling or accessory building for residential and agricultural purposes.
- g) Recreational vehicle \forall storage (except as indicated under temporary structures).
- h) Recreational vehicle parks.
- i) Trailer parks.
- j) Storage warehouses (mini storages).
- k) Car lots (new or used).
- l) Gravel pits

3) **BUILDING TYPE:** It is intended that all structures or buildings constructed for permanent residence purposes shall be single family dwellings. Provided that all applicable Ravalli County Subdivision Regulations have been followed, mother-in-law units, detached guest cottages, and detached offices and garages, and employee or caretaker quarters are allowed. Employee or caretaker's quarters may be constructed on a land parcel in addition to the primary residence. Such quarters shall be permanent in nature. Erection and use of structures incidental to permitted uses such as barns, storage sheds, stables, workshops, private garages and the like, may be constructed provided that they are not to be used primarily by individuals other than the owner or tenant of the premises or their employees or guests. Height of buildings is restricted to two above ground levels. It is recommended that all site built dwellings and accessory buildings be constructed to minimum standards as set forth in the Uniform Building Code. ~~Existing dwellings including trailers and modular homes on permanent foundations are allowed.~~

4) **SIGNS:** Home Business or professional signs not larger than four (4) square feet may be permanently painted or attached to dwellings and accessory buildings or be freestanding. Temporary real estate, political campaign, and construction signs not exceeding twelve (12) square feet may be erected. Said signs must be removed within ten (10) days following termination of the activity for which they were intended. Signs shall not be flashing or utilize intermittent illumination. No sign shall be placed so as to obstruct traffic visibility at road intersections.

5) **TEMPORARY STRUCTURES:** Single Wide and Double Wide Mobile Homes are not permitted, except for temporary (not to exceed two (2) years) residential purposes. Recreational vehicles may be stored on premises.

6) **NUISANCES:** Noxious offensive activities include but are not limited to Mercury Vapor Lights or other light pollution, excessive noise from any source, loud vehicles and excessive off road vehicle uses. No other noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon that interferes with the use or enjoyment of adjacent property, endangers personal health or safety, or is offensive to the senses, or which may be or become an annoyance or nuisance to the neighborhood.

(Staff Note: Nuisances can be vague and are nearly impossible for the County to enforce without very explicit definitions as to what so called nuisances entail. Staff recommends that this section be considered to be filed as a covenant.)

7) **WASTE DISPOSAL:** All residences must maintain suitable garbage disposal facilities ~~such~~ so as to prevent escape of noxious odors and provide for removal and disposition of same in manner and place other than in or upon said lots (compost piles are exempt).

8) **ACCUMULATIONS:** It shall not be permitted to conduct or operate a junkyard on said lots nor shall the accumulation of unsightly objects, used and wrecked automobiles, or parts thereof, be permitted to remain thereon.

9) **FENCES:** No chain link fencing shall be permitted within 40 feet of roadways or property borders. - dog kennels?

Non Conforming Rights: A parcel of land under one ownership and of record existing on the effective date of these restrictions, which by its size does not comply with the provisions herein, is hereby deemed a legally existing parcel. Where a lawfully existing structure (including fencing and signage), use of structure, or use of land is made non-conforming by the provisions of these restrictions, said structure or use may be continued indefinitely under the following conditions:

- 1) The non-conforming use or structure ~~may not~~ ^{shall} ~~cannot~~ be operationally expanded or physically enlarged in a manner that increases its non-conformity. Any structure may, however, be altered to bring it into conformity.
- 2) The non-conforming use or structure ~~may not~~ ^{shall} ~~cannot~~ be relocated to another location within the land parcel or the district.
- 3) If the non-conforming use ceases for any reason for a period of one year or more, any subsequent use of land or structure must be made to conform to these regulations.
- 4) Should a structure containing a non-conforming use be damaged or destroyed, it may be reconstructed for the same non-conforming use provided that such reconstruction is completed within one year.

Variances:

Procedures for Variance Requests

- 1) Applications for a variance to the Board of County Commissioners may be submitted in writing by any person by filing an Application for Variance with the Ravalli County Planning Department. Fees shall be assessed according to the existing fee schedule adopted by the Ravalli County Commissioners.
- 2) The Application for Variance must identify the applicant; identify the property at issue; identify the owner of the property and explain the relationship between the applicant and owner (if different); describe the factual background and particulars of the variance requested; set forth the specific reasons for requesting the variance; and explain how the applicant believes the variance criteria set forth herein are satisfied. Applications for variances shall be reviewed by staff for completeness, and shall be returned to the applicant without further processing if determined not to meet the requirements of this section.
- 3) The Ravalli County Planning Department shall fix a reasonable time for the Board of County Commissioners' hearing of the variance request.

- 4) The Ravalli County Planning Department shall publish two (2) notices, one (1) week apart in a newspaper of general County circulation, the first of which shall appear at least fifteen (15) calendar days prior to the public hearing. The notice shall contain a brief description of the variance request; the location of the property; the date, time and place of the public hearing; and the statement that the application is on file for public inspection at the Planning Department.
- 5) The Ravalli County Planning Department shall send written notification of the variance request to the property owners according to the following procedures:
 - a. Mailing lists shall include all persons listed in the most current available data in County records who own the subject property(s) and other property(s) in the Ricketts Road Voluntary Zoning District.
 - b. The mailing shall be postmarked at least fifteen (15) days prior to the public hearing.
 - c. The notice shall contain a brief description of the nature of the application; the time, place and date of the public hearing; and the phone number and address of the Planning Department.
- 6) At the hearing, any party may appear in person or be represented by an agent or attorney.

Requirements for Granting a Variance

- 1) The Board of County Commissioners may only grant a variance if it makes positive findings on all of the following criteria:
 - a. that granting the variance will not be contrary to the public interest or injurious to the neighborhood; and
 - b. that, owing to special conditions, a literal enforcement of the provisions of these regulations will result in unnecessary hardship if the variance is not granted; and
 - c. that the spirit of the regulations shall be observed and substantial justice done; and
 - d. that the variance granted is the minimum deviation that will make possible the reasonable use of the land, building or structure; and
 - e. that the special conditions and circumstances do not result from the action of the applicant or prior owners of the parcel at issue.
- 2) Neither the permitted nor nonconforming use of other lands, structures or buildings in the jurisdiction shall be grounds for the issuance of a variance.
- 3) "Hardship" refers to circumstances peculiar to the particular property. Financial or economic difficulties or consequences of actions by the property owner are not "hardships" for variance purposes.

Variances:

~~(a) Generally: The Board of County Commissioners may grant a variance from the strict application of any provision of this Code, provided that such variance is granted in conformance with the County's Comprehensive Plan and Zoning.~~

Amendments:

Amendments:

- 1) ~~(b)~~ Landowner Initiated: When not in conflict with the Ravalli County ~~Comprehensive Plan Growth Policy~~ or future other zoning, the Board of County Commissioners may amend the district boundary or any provision that applies to this district, provided that either sixty (60) percent of the landowners, or owners of fifty (50) percent of land within said district, submit a signed petition to the Board of County Commissioners, and following a properly noticed public hearing.
 - 2) ~~(c)~~ County Initiated: The County may amend the regulations and standards, or any other provision of the district, when done in the context of a ~~comprehensive plan~~ Ravalli County Growth Policy revision, and following a properly noticed public hearing.
- ~~The uses and standards that shall be permitted throughout the district follow in the "Rules".~~

Enforcement:

- ~~(a)~~ 1) County Enforcement. The County shall enforce the provisions of this district.
- ~~(b)~~ 2) Effect of Non-enforcement. Failure to immediately enforce any of these provisions shall not in any event be construed or held to be a waiver thereof or consent to any further or succeeding breach or violation.

Delivered to planning
office & date stamped, 12/12/07

ADVANCED STORAGE SOLUTIONS

TO: Ravalli County Planning Department

RE: Ricketts Road Voluntary Zoning District

12/11/07

Please enter this **Letter of Protest**, from Clam Fork, LLC, a land owner within the boundaries of the recently proposed Ricketts Road Voluntary Zoning District. Our property legal description is: S 26, T6N, R21W, in SESWNE, Index 8, Deed 494567.

We have no issue with the citizen's rights to form a Voluntary Residential Zoning District. We do, however, protest the inclusion of our commercial property, which is located on the far southern boundary, in this residential district. If the intent of the district is to halt further growth of commercial activity on Ricketts Road, then we feel a more appropriate south boundary would exclude our property, which is already commercial in nature. Our property is entered from West Bridge Road, and is across from a school, church, and another storage facility.

We have been working with some of the immediate neighbors to alleviate their concerns. We have abandoned pole lighting in our commercial complex, in favor of soft lighting on the buildings. We have created a no-build buffer zone on the north side of our property. (See attached map). After listening to our neighbors to the north, we have abandoned plans to put in a used car "Park and Sell" lot. We have agreed to share the cost of planting trees with Shirley Smith, our neighbor to the immediate north. Of our 9 acre total property, we only plan to use about four acres for our business. The vast majority of our commercial enterprise utilizes our road frontage and access, on West Bridge Road.

The rules of the proposed zoning district seem to be targeting our business. Those rules would make it difficult, if not impossible, to utilize the space within our fenced area for future projects. We would like to add a building for secure, climate controlled record keeping storage, which is sorely needed by many governmental and private businesses. We would also like to utilize an area, sheltered from sight behind a row of trees, for covered boat and RV storage. The rules of the proposed zoning district would seem to prohibit us from any further building to provide these much needed services.

We respectfully ask the Planning Department for a recommendation to the Board of County Commissioners, which would exclude our commercial property at 110 West Bridge Road, from the boundaries of this proposed residential zoning district. This would seem to make more sense, and would not infringe on the rights of property owners to protect the Ricketts Road corridor from further development.

Thank you,

Steve Benedict

Mike West

Clam Fork, LLC, 492 Paradise Trail, Hamilton, MT 59840

Tristan Riddell

From: John C Horat [john@brengineer.myrf.net]
Sent: Tuesday, July 15, 2008 3:14 PM
To: Tristan Riddell
Subject: Fw: Ricketts Voluntary Zoning District

Revised 7/15/08

Hi Tristan,

Please provide these comments to the planning and zoning commission pertaining to the meeting scheduled for the 16th at 9:00 a.m.

- There appears to be no density standard so in theory a five acre parcel could be developed so that ten single family residential units could be constructed with public water/wastewater systems.
- With the present Draft A Countywide Zoning Documents, VZD's are exempt from zoning. Therefore, if the Ricketts VZD is approved, a possible higher density than what is proposed for County wide zoning is possible.
- Page 9, Chain link fencing within 40 feet of property borders seems excessive and may create additional weed maintenance between the road and fencing.
- Pertaining to the timeline for adoption, it would be nice to have a final document and then at least one week to review final changes prior to the Commissioners approving them.

Thanks for taking these comments into consideration.

John C. Horat, PE
1180 Eastside Highway
Corvallis, MT 59828
406 961-5634
fax 1-866-856-3688

**ADVANCED
STORAGE SOLUTIONS**
110 West Bridge Road
P. O. Box 1812
Hamilton, MT 59840

RE: Ricketts Road Voluntary Zoning District Public Hearing July 16th, 2008.

Testimony of Steve Benedict, Co-Owner Advanced Storage Solutions

For the record, my name is Steve Benedict and I'm co-owner of Advanced Storage Solutions. I want to thank the commissioners for the opportunity to make some observations on the proposed Ricketts Road Voluntary Zoning District. . My comments are not meant to be confrontational, in any way. I merely would like to ask you to consider some critical issues, before making any decisions.

In reading the staff report and the proposed rules, I see some areas that should be of major concern to the petitioners and to the commission. The issue of density is not addressed. In theory, someone could put a 10 or 12 unit apartment complex on their minimum of five acres. There is much bench land available in the district, where an engineered septic system could be utilized. The petitioners are limiting lot size, but not septic size or water usage. The language concerning land use is very vague, such as the phrase "It is intended," rather than more definite terminology like " It shall be used." I'm sure it was an oversight on the part of the petitioners, but it is a loophole that needs to be addressed, especially as it pertains to sanitation and aquifer depletion. If this is allowed to move forward, it could set a precedent for other volunteer zoning districts to come forward. Each additional voluntary zoning district that manages to get established will not be subject to any countywide zoning, as voluntary zoning districts are exempt from countywide zoning, under the current Draft A. This could open a pandora's box, and once precedent is established...it pretty hard to put the genie back in the bottle.

In my opinion, the requirement for any chain link fencing to be set back 40 feet from the roadway or property border is an invitation for a noxious weed nightmare, which is a health and safety issue. Most people mow inside their fence line. I would suggest that if the petitioners want these kind of huge setbacks, they should be required to come with a weed management plan. The alternative would be to drop the fencing setback requirement entirely, as it is not consistent with other voluntary zoning districts.

In reading the latest staff report, there are numerous staff comments, revisions and conflicts which have not been resolved. In short, this voluntary zoning district doesn't seem to be ready for commission review.

Finally, I would like to make some observations about the process. There are a number of people following this voluntary zoning district that you have before you, very closely. Some, like the 8 Mile voluntary zoning district, have been told that VZD's don't fit with countywide comprehensive planning and zoning...and the county has no responsibility for any timeline in approving these districts. The 8 mile VZD has been on hold since 2006. This one has been rushed through, to this point, in a little over 8 months. That's inconsistent and opens the door for more lawsuits.

Then, there are people waiting with bated breath to see if the commission approves this VZD. If so, they are waiting in the wings with their own VZD's to propose. Many of them are not convinced that countywide comprehensive zoning will occur, given the Darby vote and anti zoning groups forming.

By approval of this VZD you may be sending a signal out to many people that they better get their own VZD's put together. By allowing this VZD, the message being sent out here, would seem to be that the commissioners are not confident that countywide zoning will ever occur, and the county commission welcomes new volunteer zoning districts, as a fall back position. I believe approval of this VZD sets a precedent that invites a lot more new volunteer zoning districts. That would put a tremendous burden on the planning staff and create a patchwork quilt of zoning districts all over the county, all with different rules and none of them subject to countywide zoning.

I hope you receive these comments in the spirit they are intended. There are many questions in a lot of people's minds about countywide comprehensive zoning. I hope you are sensitive to sending the right message, with your actions concerning the Ricketts Road Voluntary Zoning District.

Thank you

**ADVANCED
STORAGE SOLUTIONS**
110 West Bridge Road
P. O. Box 1812
Hamilton, MT 59840

RE: Ricketts Road Voluntary Zoning District Public Hearing July 16th, 2008.

Testimony of Michael West, Co-Owner Advanced Storage Solutions

This is a voluntary zoning district for residential use. Advanced Storage Solutions is a fully operational commercial business in existence before the boundaries for the Ricketts Road Zoning District were approved by the County Commissioners. We are located at 110 West Bridge Road. My question is why our commercial business was included in the boundaries of the Ricketts Road residential zoning district? All the other commercial businesses on West bridge Road, including another mini storage business right across the street, on West Bridge Road were left out of the boundaries? Our next door neighbor, Rae Moudy, on West Bridge Road, was left out of the zoning district, as she has multi family housing. There seems to be a lot of inconsistencies to the boundaries, and the petitioners are intentionally targeting our business, while our neighboring businesses are allowed to continue to grow and expand. In a letter to the Planning Department, dated December 11, 2007, during the boundary protest period, we asked to be left out of the residential zoning district, where we obviously did not fit in. This protest, 7 months ago, was not even acknowledged, or any reasons given for not allowing us to be excluded.

We put a lot of thought and money into our business. We took a vacant lot...a junkyard full of noxious weeds... and turned it into an attractive addition to the other commercial businesses surrounding it? Our lot is not suitable for residential purposes. The septic issues had made it suitable only for growing noxious weeds and junk. We found a way to clean up that lot and put it to it's highest and best use. Now, by inclusion of our commercial business in this residential zoning district, we are prevented from any further expansion. Our neighboring businesses are allowed to expand, but we cannot. Why is this? Is this still America, where free enterprise is not a dirty word? Where is the balance? Where is the fair and equal treatment for all?

If we are released from the boundaries of the residential zoning district, and allowed to expand and continue to beautify our lot, everyone wins. Instead of a weed patch, worth almost nothing on the tax rolls, we can

continue to create more additional taxable commercial revenue for the county. We can help clean up an eyesore in the area, and reduce the spread of noxious weeds to other areas.

I don't know whether the economic harm done to us bothers the petitioners...but it sure concerns us. We have invested much of our life savings in our project. It's one of the main keys to our retirement. We made this \$750,000 investment in good faith, and after doing our homework. The land was un-zoned and a good location on West Bridge Road, a very busy main arterial to the west side. By trying to lock our commercial business into a residential zoning district, the petitioners are jeopardizing our retirement investment. That to me is economic harm...and for no good reason!

I ask the commissioners to send this back to planning and zoning, and have the boundaries changed to exclude our lot from this district. What harm can there be in that? If the petitioners truly want a residential zoning district, it shouldn't be any problem to take our commercial business out of the district, and give them the type of zoning they want. It would allow us to be on a level playing field with our commercial neighbors, like the mini storages across the street from us, who have 5 acres and plenty of room for expansion.

If we were smack dab in the middle of the residential district, it might make some difference to the petitioners. In fact, we are right on the outer fringe of the zoning district, and we belong with our commercial neighbors.

I ask the commissioners to please, please...take a hard look at this before you make a decision. Take the time to do it right, and redraw the boundaries. Make it a win...win situation for everyone.